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Docket No.: 213142US0



COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

RE: Application Serial No.: 10/014,712

Applicants: Gottlieb-Georg LINDNER, et al.
Filing Date: December 14, 2001
For: DOPED PRECIPITATED SILICA
Group Art Unit: 1754
Examiner: N.Y.M. Nguyen

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SIR:

Attached hereto for filing are the following papers:

RESPONSE TO ELECTION OF SPECIES

Our check in the amount of **\$0.00** is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
Gottlieb-Georg LINDNER, et al. : GROUP ART UNIT: 1754
SERIAL NO: 10/014,712 : EXAMINER: N.Y.M. NGUYEN
FILED: DECEMBER 14, 2001 :
FOR: DOPED PRECIPITATED SILICA :
:

RESPONSE TO ELECTION OF SPECIES

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

SIR:

Responsive to the Office Action of June 24, 2003, requiring an election of species,
Applicants elect, **with traverse**, Zr as the foreign atom.

All the claims read on the elected species.

REMARKS

37 CFR 1.146 provides for election of species “[i]n the first action.” The Examiner has made a restriction requirement only in the first action, and Applicants have already made an election therein. The rules do not provide for an election of species in a subsequent action, especially when no amendment was made prior thereto. The Examiner has unjustifiably delayed prosecution on the merits in this application since, if an election of species were called for it could and should have been made part of the first action.

Nor has the Examiner justified requiring election of species *per se*. For example, the Examiner is not shown that an undue burden exists for search and examination on the entire elected group, let alone all the claims in the application.